

Oakwood, Dayton, Ohio
June 14, 2012

The Zoning Board of Appeals met in session this date at 4:450 o'clock p.m., in the council chambers of the City of Oakwood, 30 Park Avenue, Dayton, Ohio-45419. The Vice Chair, Mr. Dan Deitz, presided and the Acting Recording Secretary, Mr. Jay Weiskircher, recorded.

Upon call of the roll, the following members of the board responded to their names:

MR. KIP BOHACHEK	ARRIVED LATE
MR. DAN DEITZ	PRESENT
MRS. JANE G. VOISARD	PRESENT
MR. GREG LAUTERBACH.....	PRESENT
MR. KEVIN HILL.....	PRESENT

The following officers of the city were present:

Mr. Jay A. Weiskircher, Assistant City Manager
Mr. Dave Bunting, City Inspector

The following visitor registered:

Patrick Czeiszperger, 336 W. Schantz Avenue

Mr. Weiskircher noted that since this is the first meeting of the BZA for 2012, they will need to appoint a Chair and Vice-Chair. Following a brief discussion, Mr. Lauterbach made a motion, second by Mrs. Voisard, to reappoint Mr. Bohachek as Chair and Mr. Dietz as Vice-Chair. The motion passed unanimously.

It was moved by Mrs. Voisard and seconded by Mr. Lauterbach that the minutes of the meeting held October 14, 2010 be approved as submitted and the reading thereof be dispensed with at this hearing. Upon a viva voce vote on the question of the motion, the same passed unanimously, with Mr. Hill abstaining, and it was so ordered.

Application #12-1, the request by Patrick Czeiszperger to vary the side yard setback for a 23 x 53 addition and existing driveway at 336 W. Schantz was presented. Mr. Deitz explained to the applicant the public hearing process and asked Mr. Czeiszperger to explain his application. Mr. Czeiszperger explained that he is proposing a two-story addition on the east side of the house and the variance is necessary because the addition encroaches 5' into the 10' side yard setback. Mr. Czeiszperger reviewed the proposed exterior building materials to be used and indicated he would be willing to replace the proposed hardiplank on the east and south sides of the addition with brick to match the existing. He went on to add that he also plans to paint the existing brick.

Mrs. Voisard questioned whether there will be adequate access to the rear of the property in event of fire or other safety issue. It was noted by Mr. Weiskircher that the conditions in this application regarding rear yard access are fairly typical of a majority of properties in Oakwood.

Mr. Deitz closed the public hearing and Mr. Bohachek arrived at 4:55 p.m. Discussion ensued with regard to a number of application details including ceiling height, matching exterior trim, safety door fire ratings, etc. Mr. Czeiszperger indicated he will serve as general contractor for the project and intends to get started as soon as permits are available.

STANDARDS FOR VARIANCES

- A. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.

PRELIMINARY STAFF FINDINGS: The variance request is necessary in order to have sufficient space for a proposed addition with a two-bay garage door opening. The addition encroaches 5' into the side yard setback.

BOARD OF ZONING APPEALS FINDINGS: Sustained.

- B. The conditions upon which a petition for a Variance is based are unique to the property for which the Variance is sought and are not applicable, generally, to other property within the same zoning classification.

PRELIMINARY STAFF FINDINGS: The conditions in this application are not unique to this property.

BOARD OF ZONING APPEALS FINDINGS: Sustained.

- C. The purpose of the Variance is not based primarily upon a desire to make more money out of the property.

PRELIMINARY STAFF FINDINGS: The purpose of the variance is to accommodate the property owner's desire to construct a two-story addition and is not based primarily upon a desire to make more money out of the property.

BOARD OF ZONING APPEALS FINDINGS: Sustained.

- D. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any person presently having an interest in the property.

PRELIMINARY STAFF FINDINGS: The variance request is directly related to the property owner's desire to construct an addition that encroaches into the required side yard setback.

BOARD OF ZONING APPEALS FINDINGS: Sustained.

- E. The property in question cannot yield a reasonable return if permitted to be used only under the regulations of district in which it is located.

PRELIMINARY STAFF FINDINGS: The property can yield a reasonable return if the variance is not granted.

BOARD OF ZONING APPEALS FINDINGS: Sustained.

- F. The granting of the Variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.

PRELIMINARY STAFF FINDINGS: With a west side yard setback of 51', we do not believe the proposed addition will negatively impact the adjoining property to the east.

BOARD OF ZONING APPEALS FINDINGS: Sustained.

- G. The proposed Variance will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion of the public streets, the danger of fire, or danger to persons or property, nor will it create unreasonable noise, create a substantially adverse aesthetic appearance or substantially diminish or impair property values within the neighborhood.

PRELIMINARY STAFF FINDINGS: The proposed addition will not impair an adequate supply of light to the adjacent property to the east. In terms of aesthetic appearance, the use of hardi-plank on the east and south side of the addition is not our preference, but the applicant indicates he is not opposed to using brick on all three sides to more closely match the existing materials.

BOARD OF ZONING APPEALS FINDINGS: Sustained.

- H. The shape, topography, or other conditions of the land is such that it is extremely difficult to comply with the regulations generally applicable to the property.

PRELIMINARY STAFF FINDINGS: There are no shape, topography or other conditions of the land that make it difficult to comply with the setback regulations.

BOARD OF ZONING APPEALS FINDINGS: Sustained.

- I. The applicant must show that the Variance requested will not be materially detrimental to the public welfare or materially injurious to the enjoyment, use or development of property or improvements permitted in the vicinity; will not materially impair an adequate supply of light and air to properties and improvements in the vicinity; will not substantially increase congestion in the public streets due to traffic or parking or increase the danger of flood or fire; will not unduly tax public utilities and facilities in the area; or will not endanger the public health, safety or welfare.

No yard, setback, or lot area or width Variance may be granted unless any structure subsequently placed on the lot, and the result of any changes in existing structures, must be of such appearance, size and location that it will not have an adverse impact upon the value of other residences in the immediate vicinity and on approximately the same size lots and, while recognizing the diversity of Oakwood housing, is reasonably compatible with the appearance, size and location of such other residences on such lots.

Plans for any structure to be placed upon, or improved or expanded upon, a lot granted such a Variance must be submitted in advance for approval by the BZA, and no structure may be erected except in accordance with plans approved by the BZA on the basis of meeting these conditions and the other standards required for Variances. In considering the plans, the BZA must give notice and hold a public hearing in the same manner as described above in this Section.

PRELIMINARY STAFF FINDINGS: Staff's primary concern with the addition is the proposed use of hardi-plank rather than the side yard variance itself.

BOARD OF ZONING APPEALS FINDINGS: Sustained.

Upon consideration of these representations by the applicant, the board made a finding that these standards for variances have been met.

Therefore, it was moved by Mr. Lauterbach and seconded by Mrs. Voisard that application #12-1, the request by Patrick Czeiszperger to vary the side yard setback for a 23 x 53 addition and existing driveway at 336 W. Schantz Avenue, and known as pt. lot 3250, be approved based on plans and information submitted, subject to the applicant substituting brick for the hardi-plank originally proposed on the east and south side of the addition and that the rear gable, soffit and eave details all match the existing and in accordance with all applicable city rules and regulations. Upon a viva voce vote on the question of the motion, same passed unanimously and it was so ordered.

There being no further business to come before the board, the meeting concluded at 5:03 p.m.


CHAIR

ATTEST:


ACTING RECORDING SECRETARY